IN THE HIGH COURT OF GUJARAT AT AHMEDABAD.

SPECIAL CIVIL APPLICATION No 4779 of 1996

For Approval and Signature :

Hon'ble MR. JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the Judgment ?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the Judgment ?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

PANCHADA MILK PRODUCERS COOP. SOCIETY
VERSUS
STATE OF GUJARAT

Appearance:
MR CB DASTOOR for the Petitioner
MR MA BUKHARI, AGP, for Respondent No.1
MR MK VAKHARIA for Respondent No.2

CORAM : MR JUSTICE S.K. KESHOTE
Date of Decision : 29/06/2000

C.A.V. JUDGMENT

1. The petitioner, a registered cooperative

Society, by this petition under Articles 226 and 227 of the Constitution is praying for quashing and setting aside of the order annexure `C' of the State Government under which the order of the District Registrar, Cooperative Societies, Palanpur Dist. Banaskanthat dated 14th October, 1995 has been maintained.

2. Under the order of the District Registrar dated 14th October, 1995, the respondent No.2 - Society was registered. The petitioner filed an Appeal No. 121 of 1995 against this order of the District Registrar before the Additional Registrar on 19th October, 1995 which came to be allowed under the order dated 14th February, 1996 and the order of the District Registrar granting registration to the respondent No.2-Society came to be set aside. The respondent No.2 preferred the revision application before the State Government which was decided on 15th April, 1996 under the order annexure `C', and the order of the Additional Registrar was set aside and that of the District Registrar was restored. Hence, this special civil application.

3. After filing of this petition, a draft amendment has been filed which has also been perused.

4. Learned counsel for the petitioner contended that Becharpura is not a village. It has next been contended that the petitioner-Society is efficiently working in the area and there was no need to register another Society. Further contention has been raised that in case the Society is registered, it will adversely affect the working of the petitioner-Society and it is not in the larger interest of the cooperative movement.

5. Learned counsel for the respondents supported the orders passed by the respondent No.1.

6. I have given my thoughtful consideration to the submissions made by the learned counsel for the parties.

7. From the affidavit-in-reply filed by the respondent NO.2, and more particulary from document at page NO.22 attached thereof, I find that the working of the petitioner-Society is not adversely affected in any way. In 1995-96, the petitioner Society collected 2,53,010 kgs. of milk of buffaloes plus cows. In the year 1996-97 it collected 3,22,167 kgs, of milk and in the year 1997-98, it collected 3,40,952 kgs. of milk.

8. Rejoinder to the reply has not been filed to

these averments and the same are taken to be correct. From the draft amendment also, I do not find that anything has been produced to show that by registration of the Society, the respondent No.2, any adverse affect has been there on the working of the petitioner-Society. It is a milk producers' cooperative society and I fail to see if another Society has been registered unless it is prejudicially affecting the working of the existing Society, how far it is justified for the petitioner to make this petition before this court. This objection of the petitioner in the facts of this case against the registration of the respondent No.2-Society is wholly arbitrary and unjustified. It is nothing but only to have a monopoly in the area at the cost of producers of milk.

9. The contention raised that Becharpura is not a village cannot be permitted to be raised as it is a question of fact. Learned counsel for the petitioner, on being asked by the court, has failed to point out from the orders of the authorities below that this point has been raised. Moreover, I do not find that the registration of the respondent No.2 is rejected by the appellate authority on the ground that Becharpura is not an existing village. I do not find any perversity in the order passed by the revisional authority. The revisional authority has passed a just and reasonable order and the order in furtherance of the object for which cooperative Societies are being registered. It is in the larger interest of the milk producers for registration of such a society and more so thereto no objection can be taken when it is not adversely affecting the working of the petitioner-Society.

10. In the result, this special civil application fails and the same is dismissed. Rule discharged. The petitioner is directed to pay Rs.2000/- as costs of this petition to the respondent No.2.

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zgs/-